

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

COMMENTS OF ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.

Alaska Communications Systems Group, Inc., on behalf of its operating subsidiaries (“ACS”),¹ hereby responds to the inter-carrier compensation (“ICC”) portions of the Commission’s *Further Notice of Proposed Rulemaking* in the above-captioned dockets.²

I. INTRODUCTION & SUMMARY

¹ In this proceeding Alaska Communications Systems Group, Inc. represents four local exchange carriers, ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc. (the “ACS ILECs”), as well as ACS Long Distance, Inc., ACS Cable, Inc., ACS Internet, Inc., and ACS Wireless, Inc. Together, these companies provide retail and wholesale wireline and wireless telecommunications, information, broadband, and other services to residential and business customers in the State of Alaska and beyond, using ACS’s intrastate and interstate facilities.

² *Connect America Fund et al.*, Report and Order (“*CAF/ICC Order*”) and Further Notice of Proposed Rulemaking (“*FNPRM*”) in WC Docket Nos. 10-90 *et al.*, FCC 11-161 (rel. Nov. 18, 2011). ACS herein responds to Sections L through R of the *FNPRM*.

In the *CAF/ICC Order*, the Commission dramatically revamped the regulated revenue streams on which traditional telephone companies such as the ACS ILECs rely, and signaled the intention to shift the voice telecommunications regime in the United States away from regulation and toward market-based policies.³ The Commission ordered substantial reductions in most regulated inter-carrier charges based on a policy that carriers should recover their costs in most instances entirely from their own end-users,⁴ and prohibited carriers from shifting their revenue recovery to the rate elements not zeroed out by the *CAF/ICC Order*.⁵ The Commission also indicated that, while some revenue replacement will be made available through the temporary ICC-replacement Connect America Fund (“CAF”) mechanism, that mechanism will not be revenue-neutral – carriers such as the ACS ILECs are expected to raise end-user rates or forego the revenue.⁶ Nevertheless, the Commission continues to require certain carriers such as the ACS ILECs to interconnect with other carriers on regulated terms, to provide access to many portions of their networks to would-be competitors, and to provide services upon request, even in areas where it is uneconomical to do so. Thus, the market-based environment envisioned by the Commission is far from fully realized in the current rules and policies.

³ *CAF/ICC Order* ¶¶736, 801. In the opening paragraphs of the *CAF/ICC Order* the Commission emphasized the need for a “more incentive-based, *market-driven approach* that can reduce arbitrage and competitive distortions by phasing down byzantine per-minute and geography-based charges” as well as the “need to provide more certainty and predictability regarding revenues to enable carriers to invest in modern, IP networks.” *CAF/ICC Order*, ¶9 (emphasis added). Further, it claims that the “framework adopted . . . provides all stakeholders with a clear path forward as the Commission transitions its voice support mechanisms to expressly include broadband and mobility, from the PSTN to IP, and toward *market-based policies*, such as competitive bidding.” *See id.* ¶16 (emphasis added).

⁴ *CAF/ICC Order* ¶¶847-48.

⁵ *CAF/ICC Order* ¶804.

⁶ *CAF/ICC Order* ¶¶853, 881, 918 & n. 1818.

ACS urges the Commission, through the *FNPRM* and other pending proceedings, to accomplish many of the deregulatory steps that logically flow from the *CAF/ICC Order*. ACS believes that many of the matters raised in the *FNPRM* are best left to the marketplace, in the first instance, unless and until the Commission detects evidence of some market failure. Moreover, the Commission should take additional concrete steps toward a market-based ICC regime by granting forbearance from outmoded interconnection and unbundling requirements under Section 251 of the Act.

Specifically, ACS advocates that the Commission:

- Refrain from ordering changes in originating access, transit or other charges, and allow contractual arrangements to govern;
- Adopt simple network edge rules for IP-to-IP networks that place the burden on the originating carrier to deliver traffic to the terminating carrier's network edge;
- Ensure nationwide consistency in the ICC rules that do apply, preempting state requirements that exceed or are inconsistent with FCC requirements;
- Allow carriers to put in place the Access Recovery Charge ("ARC") and gain experience with this rate element before ordaining its phase-out, or that of the Subscriber Line Charge ("SLC"); and
- Phase out ILEC requirements under the Communications Act and state law, so that ILECs no longer must maintain two networks, deploy facilities where it is not economical to do so, or provide below-cost facilities to would-be competitors where no business case exists for market entry.

II. DISCUSSION

A. Transitioning Rate Elements To Bill-and-Keep

In the *FNPRM*, the Commission seeks comment on adopting bill-and-keep requirements those rate elements for which it has not already established a transition to zero.⁷ ACS modestly submits that it is too soon to adopt any such rule changes. Only months ago the Commission

⁷ *FNPRM* ¶1297.

adopted rules that require massive revenue shifts by local exchange carriers (“LECs”), and impose substantial administrative burdens on companies like ACS. Over the next five to seven years, consumers will see their rates increase, carriers will experience revenue declines, and LEC networks must be reengineered to comply with new service requirements. New broadband build-out requirements, network testing and reporting requirements, rate structure and tariff changes, changes to customer bills, and changes to call signaling requirements all must be incorporated into internal carrier processes and implemented in accordance with hundreds of pages of new FCC rules. With all due respect to the Commission, carriers are being asked to absorb a great deal.

There is no need to address further reductions in ICC rates at this time. Interexchange carriers already are set to benefit from massive reductions in terminating access charges, while LECs need time to adjust their operations and manage the transitions to bill-and-keep, the ARC and the CAF. Ordering further LEC revenue reductions for originating access at this stage is premature at best. Moreover, originating access is different in Alaska from most other locations in the U.S. Most locations in the state are served by rural LECs that are not affiliated with the interexchange carrier (“IXC”) serving them. Their access to interexchange services is only through AT&T and GCI, who control the facilities into and out of those communities.⁸

Originating access helps defray the legitimate costs of maintaining local networks in those remote locations, without which the IXCs would have no ability to serve their customers in those

⁸ See Comments of Alaska Communications Systems Group, Inc. on *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, filed Aug. 24, 2011, at 8 (“the net results of all of the ICC reductions and shifts in cost-recovery appear to be that most end-users will pay more to their local voice/broadband service provider while very large providers (namely, AT&T and Verizon) who currently pay access and interconnection charges to terminate traffic on the smaller companies’ networks in the state will receive a windfall in cost savings but no requirement to pass through the savings to consumers”).

locations. At least for the present, the Commission should exempt Alaska from any changes to originating access.⁹

As far as transit traffic exists in Alaska, it has not been the source of much controversy. The vast majority of such traffic is covered by contracts negotiated between carriers on market-based terms. There is no need for FCC or state regulatory intervention in transit arrangements in Alaska at this time.

B. Interconnection In the Bill-and-Keep Environment

The *FNPRM* also seeks comment on interconnection and network “edge” rules for the bill-and-keep environment.¹⁰ When carriers are exchanging traffic on an IP-to-IP network, ACS advocates a simple rule placing responsibility on the originating service provider to deliver traffic to the terminating provider’s network edge, as defined by the Commission; or, if both parties reach such an agreement, the originating party may compensate the terminating provider for accepting the traffic at another location.¹¹ The rule should be uniform for all providers, not be more onerous for ILECs than for CLECs, nor provide rights for IP-based service providers without conferring on them the same responsibilities borne by telecommunications carriers. The rule should encourage each service provider to bear its own costs of end-to-end transmission of

⁹ For the same reasons, ACS does not support FCC deferral to the states to create a transition to bill-and-keep for originating access, nor changes to originating access for 8YY traffic. *See FNPRM* ¶¶1302-03.

¹⁰ *FNPRM* ¶¶1315-21.

¹¹ The network “edge” is not an appropriate boundary for bill-and-keep when carriers exchange traffic over a network that includes TDM technology. The rate structure for traffic exchanged on TDM networks was premised on these networks being local networks, where LECs carried traffic from an IXC POP located within its local service area to the LEC’s end user customer location. Such traffic has been carried at regulated local rates and does not include the cost of transporting traffic beyond the IXC POP in the local serving area. Traffic exchanged on an IP-to-IP network contemplates a broader transport range and customers pay higher rates for that expanded service.

traffic on the IP-to-IP network, and not encourage an originating provider to hand off traffic to another service provider *except where it is efficient for both providers*. Inconsistent or additional state requirements should be preempted.¹²

ACS supports the proposal to permit carriers to negotiate alternative interconnection arrangements even while tariffed terms remain in effect.¹³ Given the Commission's expressed desire that the market move away from tariffed ICC toward market-based arrangements, tariffing requirements should be forborne as necessary to allow LECs to enter into customized interconnection arrangements. ACS also agrees with the proposal to make all entities equally subject to the obligations under Sections 251 and 252 of the Act to enter into good faith negotiations for interconnection arrangements.¹⁴ Such a rule would harmonize the interconnection regime with the Commission's market-oriented policies and ICC reforms.

ACS urges the Commission to refrain from adopting any new IP interconnection rules at this time. The IP-based voice services market is a nascent one, and bound to evolve rapidly over the next few years, while carriers simultaneously are building out broadband networks and transitioning their ICC to bill-and-keep. It is far from clear that there is a need for FCC regulation of IP-to-IP interconnection. As noted in the *FNPRM*, a Technical Advisory Committee is in the midst of evaluating what issues will arise as TDM-based networks are converted to IP.¹⁵

¹² ACS thus disagrees that states should establish the network edge pursuant to Commission guidance. *FNPRM* ¶1321. To ensure uniformity and to avoid unnecessary burdens on service providers, the Commission should establish a simple, clear rule defining the network edge, such as at the called party's end-office, media gateway, or mobile switching center, and allow carriers to resolve logistics by agreement. *See FNPRM* ¶1320.

¹³ *FNPRM* ¶¶1322-23.

¹⁴ *See FNPRM* ¶1324.

¹⁵ *FNPRM* n. 2426.

As the Commission observes, the need for regulatory intervention historically has presented itself only in situations where interconnecting parties enjoy disparate negotiating leverage.¹⁶ It is far from clear that this will be the case in IP-to-IP interconnection, nor does the Commission yet have any evidence of what factors will drive incentives (or disincentives) to negotiate. ACS agrees that, regardless of the ILECs' historic role in operating circuit-switched voice telephone networks, they have no inherent ability to disadvantage competitors providing IP-based services.¹⁷ Appropriately, the *CAF/ICC Order* goes no farther than to adopt default rates for the exchange of voice traffic between VoIP providers and the public switched telephone network, but leaves service providers the option to negotiate alternative arrangements.¹⁸ This is sufficient, for the present.

C. Transitioning End-User Charges

ACS believes it would be premature to phase out the ARC when it has not yet been implemented. The Commission should allow carriers to implement the new rate structure, and gain experience with this rate element, before ordering changes to it. As noted in the *FNPRM*, the ARC will phase down over time by operation of the current rules.¹⁹ It is too soon to say what impact market forces will have on the ARC. The Commission should allow a reasonable time to

¹⁶ *FNPRM* ¶1337. Although the Commission cites some older decisions for the proposition that ILECs and competitive LECs have disparate negotiating power, some of the sources cited predate the Telecommunications Act of 1996, and the market landscape is considerably altered since those cases were decided.

¹⁷ *FNPRM* ¶1339, *citing* Comments of CenturyLink on *USF/ICC Transformation NPRM*, WC Docket Nos. 10-90 *et al.*, filed April 18, 2011, at 54-55 (observing that it is too soon for the Commission to have a clear picture of the end state for the all-IP environment, or IP-to-IP interconnection in particular, and in any event the Commission has expressed a preference for market-based solutions).

¹⁸ *CAF/ICC Order* ¶¶940-944.

¹⁹ *FNPRM* ¶1327.

assess the impact of its new ICC rules before ordering any further reductions in subscriber charges, including the ARC and the SLC.²⁰

D. Further Deregulation Necessary To Realize the Benefits of ICC Reform

The Commission seeks comment on whether additional rule changes are merited to resolve conflicts or inconsistencies between the *CAF/ICC Order* and its preexisting rules.²¹ ACS believes the answer is yes. FCC action is necessary, first, to correct inconsistencies between the policies embodied in the *CAF/ICC Order*, on the one hand, and legacy ILEC obligations under the Communications Act and FCC rules, on the other. Second, the Commission should preempt inconsistent state regulations. Finally, the Commission should eliminate the requirement to comply with Part 32 Uniform System of Accounts accounting.

The Commission should relieve ILECs from federal obligations that no longer make sense in light of the changes enacted in the *CAF/ICC Order*. For example, ILEC requirements under Sections 201 and 214 of the Act to furnish service upon request and obtain FCC approval prior to discontinuing service effectively require ILECs – and only ILECs – to deploy facilities and expend resources even where it is not economical to do so. These requirements made sense in the days where revenues were somewhat predictable, through ratemaking that offered carriers the opportunity to achieve a targeted rate of return on investment. However, in the new environment embodied by the *CAF/ICC Order*, where market forces for the most part will determine what revenues will be recovered and what facilities and services can be efficiently

²⁰ ACS also therefore opposes any changes to the SLC or other end-user charges at this time. *See FNPRM* ¶1330. The ACS ILECs charge local rates that vary considerably based on where service is provided. This is a function of market forces, and cost differences between different parts of the state play a meaningful role. The Commission should allow time for the transitional rules adopted in the *CAF/ICC Order* to take effect and then evaluate local rates and the need for further intervention in the market.

²¹ *FNPRM* ¶1403.

deployed, the Commission should grant forbearance from such antiquated requirements. Similarly, ILECs no longer will be able to afford to offer below-cost access to their networks to facilitate market entry by would-be competitors where no business case exists. Indeed, such access appears inconsistent with the FCC's emphasis in the *CAF/ICC Order* on deployment of facilities only where the business case exists, or where a single competitor receives support to do so as a last resort. The Commission therefore should forbear from unbundling requirements under Sections 251 and 252 of the Act.

Similarly, the Commission should put states on notice that any state requirements that are inconsistent with the Commission's efficient, market-oriented policies are preempted by federal law. For example, carriers should not be required to maintain TDM-based networks nor to offer tariffed services when the support that made those networks and services possible in high-cost areas is being phased out or repurposed to broadband. Indeed, ACS's primary Digital Multiplex System ("DMS") supplier recently announced it no longer will support the switches deployed throughout the ACS ILECs' networks. In light of the paradigm shift represented by the *CAF/ICC Order*, it is time to bring state as well as federal regulation of ILECs into parallel with the regulatory framework applicable to the rest of the industry.

Finally, the Commission should undertake Part 32 rule changes at this time, consistent with the Commission's goal of more market-driven environment. The Uniform System of Accounts ("USOA") is an unnecessary financial accounting tool,²² particularly because ILECs are already subject to other financial accounting requirements that are sufficient for monitoring ILECs' books. Specifically, the FCC's rules require ILECs to keep their books of account in

²² 47 C.F.R. §§32.1-32.2, 32.11.

accordance with generally accepted accounting principles (“GAAP”),²³ and to keep accurate and complete accounts.²⁴ Additionally, ACS, like other publicly traded companies, must submit to an independent audit each year. The USOA accounting requirements are unnecessary in light of these other reliable monitoring tools and, moreover, they require ACS to expend unnecessary resources in order to comply with what is a duplicative monitoring tool.

III. CONCLUSION

For the reasons stated above, further ICC reforms should reflect the realities faced by incumbent providers, especially in Alaska. Additional regulation is not needed at this time. Rather, the Commission should relieve carriers from obligations that no longer fit the market-oriented approach of the *CAF/ICC Order*.

Respectfully submitted,

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²³ 47 C.F.R. §32.12(a).

²⁴ 47 U.S.C. §220(e).